

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND
Northern Division

LEMURIA T. HOLMES-BEY

c/o Wendell Finner PC
9407 Harford Road
Baltimore MD 21234

CASE NO.

Plaintiff,

vs.

PEROUTKA, MILLER, KLIMA & PETERS, P.A.

Serve on: Stephen G. Peroutka, Resident Agent
8028 Ritchie Highway, Suite 300
Pasadena, MD 21122

Defendant

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

INTRODUCTION

1. Lemuria T. Holmes-Bey, Plaintiff, sues Peroutka, Miller, Klima & Peters, P.A. (Debt Collector) for its violations of the Maryland Consumer Protection Act (MCPA), the Maryland Consumer Debt Collection Act (MCDCA), and the Fair Debt Collection Practices Act (FDCPA). Fundamentally this case is about Debt Collector's refusal to respect Ms. Holmes-Bey's consumer rights by repeatedly contacting her to collect a consumer debt in order to harass her, even though it knew she was represented by an attorney.

PARTIES, JURISDICTION, AND VENUE

2. Ms. Holmes-Bey is a natural person residing in Baltimore County, Maryland and is a "consumer" as defined in the FDCPA and the MCPA.

3. Debt Collector is a limited liability company formed under the laws of Maryland with its principal place of business in Pasadena, Maryland. It is engaged in the business of collecting debts asserted to be owed to entities other than Debt Collector.

4. The Court has jurisdiction under 15 U.S.C. §1692l, 28 U.S.C. §§1331, 1367.

5. Venue is proper in this District and Division pursuant to 28 U.S.C. §1391(b)(2) and Local Rule 501(4)(b)(ii).

FACTUAL BACKGROUND

6. Ms. Holmes-Bey had an alleged debt to Capital One Bank (USA), N.A. (Bank) arising out of personal, family or household purposes. Ms. Holmes-Bey's alleged debt to Bank is a "debt" or "consumer debt" as defined by the FCCPA, Fla. Stat. § 559.55(6).

7. Ms. Holmes-Bey, facing numerous financial difficulties, hired Wendell Finner PC to represent her with respect to all debts and claims that her creditors may have had against her, and to seek relief from the overwhelming volume of debt collection calls and letters that she was receiving.

8. On October 9, 2017 Ms. Holmes-Bey, through counsel, advised Bank that she was represented by an attorney with respect to all accounts owned or serviced by Bank and requested that Bank cease all direct contact with Ms. Holmes-Bey. A true and correct copy of the fax confirmation of the October 9, 2017 communication to Bank is attached hereto as Exhibit A.¹

6. The October 9, 2017 communication to Bank placed Bank on notice that (a) Ms. Holmes-Bey was represented by counsel with regard to her alleged debt(s), (b) Ms. Holmes-Bey

¹ The fax sent to Bank contained a notice of representation which stated "PLEASE TAKE NOTICE that Wendell Finner 9407 Harford Rd Baltimore MD 21234 is my attorney at law who represents me with respect to all my debts and all claims my creditors have against me. I authorize and instruct him to discuss any of my accounts with my creditors and their affiliates, agents, employees, designees or assigns. I authorize and instruct my creditors to disclose such information to Mr. Finner as he may request, and to direct all communications to him as my attorney." The notice was signed by Ms. Holmes-Bey and included her social security number to assist recipients in identifying affected accounts. Due to the inclusion of Ms. Holmes-Bey's social security number, the Notice of Representation is not filed herewith.

did not wish to be directly contacted by Bank, and (c) Ms. Holmes-Bey disputed the alleged debt.

7. Bank confirmed receipt of the October 9, 2017 notice of representation.

8. Debt Collector and Bank are parties to an agreement, which is in those parties' exclusive possession, that provides for (a) Debt Collector to collect debts from consumers on Bank's behalf and (b) Bank to provide Debt Collector with attorney contact information regarding targeted consumers.

9. On October 10, 2017 Debt Collector, notwithstanding that Ms. Holmes-Bey was represented by counsel, sent her a letter attempting to collect the alleged debt to Bank. A true and correct copy of the October 10, 2017 letter is attached hereto as Exhibit B.

10. On October 17, 2017, David Schlee, an employee of Debt Collector, telephoned Ms. Holmes-Bey's attorney and confirmed that she was represented by counsel with respect to all debts and creditor claims.

11. On October 31, 2017, Debt Collector, notwithstanding that it had confirmed that Ms. Holmes-Bey was represented by counsel, sent her a letter attempting to collect the alleged debt to Bank. A true and correct copy of the October 31, 2017 letter is attached hereto as Exhibit C.

12. Mr. Schlee made subsequent calls to Ms. Holmes-Bey's attorney on December 5, 2017 and January 8, 2018. In response to each call Ms. Holmes-Bey's attorney left a voice mail for Mr. Schlee confirming that Ms. Holmes-Bey was still was represented by counsel with respect to all debts and creditor claims.

13. On March 2, 2018, notwithstanding that it had confirmed that Ms. Holmes-Bey was represented by counsel, Debt Collector sent a letter to Ms. Holmes-Bey at her home in an

attempt to collect a consumer debt. A true and correct copy of the March 2, 2018 letter is attached hereto as Exhibit D.

COUNT I – FAIR DEBT COLLECTION PRACTICES ACT

14. Ms. Holmes-Bey incorporates paragraphs 2-3 and 6-13 hereof.

15. By contacting Ms. Holmes-Bey repeatedly when it knew her to be represented by an attorney, Debt Collector violated 15 U.S.C. §1692c(a)(2).

16. The natural consequence of Debt Collector's direct dunning of Ms. Holmes-Bey when it knew her to have an attorney was to harass Ms. Holmes-Bey, in violation of 15 U.S.C. §1692d.

WHEREFORE, Plaintiff, Lemuria T. Holmes-Bey, demands judgment against Peroutka, Miller, Klima & Peters, P.A. for actual and statutory damages, attorneys' fees, interest and costs of suit.

COUNT II – MARYLAND CONSUMER DEBT COLLECTION ACT

17. Ms. Holmes-Bey incorporates paragraphs 2-3, 6-13, and 16 hereof.

18. Debt Collector could reasonably have expected that its direct communications with Ms. Holmes-Bey even though Debt Collector knew her to be represented by an attorney would abuse and harass her.

19. By communicating with Ms. Holmes-Bey in such a manner Debt Collector violated the MCDCA, Md. Code, Com L. Art. §14-202(6).

20. Ms. Holmes-Bey experienced emotional distress and incurred attorneys' fees caused by Debt Collector's harassing communications.

WHEREFORE, Plaintiff, Lemuria T. Holmes-Bey, demands judgment against Peroutka, Miller, Klima & Peters, P.A. for actual damages, attorneys' fees, interest and costs of suit.

COUNT III – MARYLAND CONSUMER PROTECTION ACT

21. Ms. Holmes-Bey incorporates paragraphs 2-3, 6-13, 16 and 19 hereof

By violating the MDCPA, Debt Collector violated the MCPA, Md. Code, Com L. Art. §13-301 (14).

WHEREFORE, Plaintiff, Lemuria T. Holmes-Bey, demands judgment against Peroutka, Miller, Klima & Peters, P.A. for actual damages, attorneys' fees, interest and costs of suit.

JURY DEMAND

Ms. Holmes-Bey demands trial by jury.

/s Wendell Finner
WENDELL FINNER, Bar No. 04379
9407 Harford Road
Baltimore, Maryland 21234
(410) 929-2440
(410) 449-1170 fax
himself@wendellfinner.com
Attorney for Plaintiff

WENDELL FINNER PC

LAW OFFICES

Admitted in Florida, Maryland, Virginia,
and the District of Columbia

9 October 2017

CREDITOR/AGENCY NAME: CAPITAL ONE/	Sent to Fax Number: 866-941-4014
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TOTAL NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 2

OUR CLIENT: LEMURIA HOLMES-BEY	Account No: 5178059644200550 : 4003448965629770
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DOCUMENT: Signed Notice of Representation Follows

COMMENTS: The person who signed the attached notice is represented by the lawyers of this office with respect to all accounts owned or serviced by your firm. Our client's social security number is provided on the notice for your convenience in identifying all applicable accounts and should not be disclosed to any other party without the client's consent. This notice is effective until revoked.

Do not contact our client. Do not give our client's information to anybody else so that the recipient will contact our client instead of this office. If you authorize or instruct any other person to contact our client, or sell or give our client's contact information to anyone else, please tell us who that is or give that party this document. Any prior permission to contact the client's cellular, home or business phone is revoked. Our client disputes your claimed debt. You are specifically advised that the claimed balance of the referenced account contains fees and charges never assented to by our client. Please be governed accordingly.

9407 Harford Rd.
Baltimore, MD 21234

Phone: (410) 929-2440
Fax: (410) 449-1170

EXHIBIT A

Peroutka, Miller, Klima & Peters, P.A.

8028 Ritchie Highway, Ste. 300

Pasadena, Maryland 21122

Stephen Peroutka (M) Bruce Miller (M, DC) Michael J. Klima, Jr. (M, V, DC) Scott Peters (M, V, DC)

Sean Daly (M) A. Connellee Armentrout (V) Andrew Whitehead (DE) Of Counsel

(M Maryland Bar) (V Virginia Bar) (DE Delaware Bar) (DC District of Columbia Bar)

1-800-899-2424 410-553-9491 (fax)

peroutkalaw.com

October 10, 2017

Lemuria T Holmes Bey
9867 Edisto Way
Middle River, Maryland 21220-1801

Creditor: Capital One Bank (USA), N.A.
Creditor Number: XXXXXXXXXXXXX9777
Balance Due: \$2,940.47
Our File #: 17-48606-0

Dear Lemuria T Holmes Bey:

Be advised that the above account has been assigned to our office. Please forward the full payment for the above listed account to our address.

If you are unable to pay this debt in full, please contact our office. We are willing to discuss reasonable repayment of this debt. Our office can be reached at 1-800-899-2424. Alternatively, you can make a payment or schedule future payments on our website, peroutkalaw.com.

Very truly yours,

Peroutka, Miller, Klima & Peters, P.A.

FDI_17-48606-0 8248-19

IMPORTANT NOTICE

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that the debt, or any portion thereof, is disputed, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt and any information obtained will be used for that purpose.

EXHIBIT B

Peroutka, Miller, Klima & Peters, P.A.

8028 Ritchie Highway, Ste. 300

Pasadena, Maryland 21122

Stephen Peroutka (M) Bruce Miller (M, DC) Michael J. Klima, Jr. (M, V, DC) Scott Peters (M, V, DC)

Sean Daly (M) A. Connellee Armentrout (V) Andrew Whitehead (DE) Of Counsel

(M Maryland Bar) (V Virginia Bar) (DE Delaware Bar) (DC District of Columbia Bar)

1-800-899-2424 410-553-9491 (fax)

peroutkalaw.com

October 31, 2017

Lemuria T Holmes Bey
9867 Edisto Way
Middle River, Maryland 21220-1801

Creditor: Capital One Bank (USA), N.A.

Creditor Number: XXXXXXXXXXXXX0553

Balance Due: \$2,980.64

Our File #: 17-50429-0

Dear Lemuria T Holmes Bey:

Be advised that the above account has been assigned to our office. Please forward the full payment for the above listed account to our address.

If you are unable to pay this debt in full, please contact our office. We are willing to discuss reasonable repayment of this debt. Our office can be reached at 1-800-899-2424. Alternatively, you can make a payment or schedule future payments on our website, peroutkalaw.com.

Very truly yours,

Peroutka, Miller, Klima & Peters, P.A.

FDI_17-50429-0_8248-19

IMPORTANT NOTICE

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that the debt, or any portion thereof, is disputed, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt and any information obtained will be used for that purpose.

EXHIBIT C

8028 Ritchie Highway, Ste. 300

Pasadena, Maryland 21122

Stephen Peroutka (M) Bruce Miller (M, DC) Michael J. Klima, Jr. (M, V, DC) Scott Peters (M, V, DC)

Sean Daly (M) A. Connellee Armentrout (V) Andrew Whitehead (DE) Of Counsel

(M Maryland Bar) (V Virginia Bar) (DE Delaware Bar) (DC District of Columbia Bar)

1-800-899-2424 410-553-9491 (fax)

peroutkalaw.com

March 2, 2018

Lemuria Holmes Bey
9867 Edisto Way
Middle River, Maryland 21220-1801

Current Creditor: CACH, LLC
Original Creditor: WebBank
Original Creditor Number: XXX4347
Our File Number: 17-55741-0

Dear Lemuria Holmes Bey:

Recently, the District Court notified our office that the lawsuit filed by Peroutka, Miller, Klima & Peters, P.A., on behalf of our client, has been assigned a case number.

The case number is 080400048272018.

If you have any unresolved questions, or if you would like to discuss arrangements, please call our office at 1-800-899-2424. Once an agreement is reached with our office, you can make a payment or schedule future payments on our website, peroutkalaw.com.

Very truly yours,

Peroutka, Miller, Klima & Peters, P.A.

17-55741-0_8239-02_SDR

This communication is from a debt collector.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

EXHIBIT D